

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-10 are all the claims pending in the application. In response to the Office Action, Applicant respectfully submits that the claims define patentable

Claims 1-10 remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ejzak (U.S. Patent No. 6,954,654) in view of Hsu et al. (U.S. Patent Application Publication No. 2004/0010473, hereafter, "Hsu") and Landherr et al. (U.S. Patent No. 6,880,156, hereafter "Landherr"). Applicant respectfully traverses the prior art rejections.

In the previous Response filed on March 24, 2009, Applicant submitted that there is no teaching or suggestion in Ejzak that the "primary application server (AS<sub>Prim</sub>), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a set of service applications for answering said incoming call, said set of service applications being determined in said analysis", as recited in claim 1 and analogously recited in claims 3, 5, and 9.

Applicant argued that although the Examiner cited column 13, lines 11-18 of Ejzak as allegedly teaching this aspect of the claims, this cited portion of Ejzak merely teaches that when a user equipment is registered, subscriber profile information is sent to the serving Call State Control Function (S-CSCF). The S-CSCF then provides all features and services for the registered user equipment. Ejzak does not teach or suggest that, after analyzing an incoming IP multimedia call, the S-CSCF presents the call to the called party together with a set of service applications for answering the incoming call, as claimed.

In response, the Examiner merely repeats the rejection verbatim and asserts:

Ejzak discloses using the interface, MGCF 145 (i.e. “called party”) accepts commands from CSCF 143 to perform functions related to the control of a call. Examiner construes that such “functions related to the control of a call” includes “analyzing an incoming call, and presents the call to the called party (i.e. MCCF 145) together with a set of service applications for answering the incoming call”.<sup>2</sup> Applicant respectfully disagrees with the Examiner’s position and interpretation of the cited reference.

First, the Examiner appears to assert that the claimed “called party” allegedly reads on the MGCF 145 of Ejzak. Applicant respectfully disagrees with the Examiner’s, and submits that the Examiner’s position is based on a clear misunderstanding of Ejzak. Ejzak clearly teaches that the MGCF, among its functions, is a signaling device which controls a set of media gateways and provides a call control interface and translations between IMS 141 and PSTN 161. The MGCF also accepts commands from the CSCF 143 to perform commands related to the control of a call (see column 5, lines 6-40), routes the calls from the CSCF to the PSTN 161.

Based on the above discussion, it is quite clear that the MGCF is not, and cannot be interpreted as the called party. Ejzak distinguishes the called party as an “E.164 number destination” (column 8, lines 58-63), thus making a clear distinction between the MGCF and the called party.

Secondly, even if the MGCF “accepts commands from the CSCF to perform functions related to the control of a call”, as asserted by the Examiner, this certainly does not equate to the feature “primary application server (AS<sub>prim</sub>), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a

---

<sup>2</sup> Page 7 of the Office Action dated July 8, 2009.

set of service applications for answering said incoming call, said set of service applications being determined in said analysis”, as claimed. The relevance of this cited portion of Ejzak to the claimed invention is unclear to Applicant.

In the previous Office Action, the Examiner acknowledged that Ejzak does not teach or suggest activating an application server. The Examiner thus relied on Landherr to cure this deficiency.

In the March 24, 2009 Response, Applicant submitted that Landherr does not teach or suggest that a “call session control Network element (CSCF) upon intercepting said incoming IP multimedia call activating a dedicated primary application server”, as recited in the claims. The Landherr system activates an additional server application on the server based on the load on the server. Landherr does not activate a dedicated primary application server upon intercepting an incoming IP multimedia call, as required by the claims. Applicant further submitted that Landherr has no relevance to the claimed invention.

In response, the Examiner asserts:

Examiner did not address the whole argued feature using Landherr alone. Such limitation was addressed using Landherr and Hsu in combination with Ejzak. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ejzak and Hsu in view of Landherr to provide upon intercepting said incoming IP multimedia call activating a dedicated primary application server (AS.sub.PRIM) in order to support the requesting server when the load exceed the threshold.<sup>3</sup>

Applicant respectfully disagrees with the Examiner, and submits that the Examiner’s position is clearly erroneous.

---

<sup>3</sup> Page 8 of the Office Action.

First, Applicant respectfully submits that the combination of the three references – Ejzak, Hsu, and Landherr simply cannot produce the claimed invention. Further, each element of the claim cannot be examined in a vacuum.

Independent claim 1 and analogous independent claims 3, 5, and 9 recite “said call session control Network element (CSCF) upon intercepting said incoming IP multimedia call activating a dedicated primary application server”. In an exemplary embodiment of the present invention, an incoming call is intercepted and a dedicated primary application server is activated. Upon analysis of the incoming call the dedicated primary application server presents the incoming call to the called party together with a set of service applications for answering the call. Therefore, the called party chooses a service application to answer the incoming call.

The Examiner cites Landherr as allegedly teaching “activating a dedicated primary application server”. However, Applicant respectfully submits that Landherr has absolutely no relevance to the claimed invention.

Landherr teaches a server which comprises one or more active server applications, a load detector and an inactive additional server application. The load detector is connected to the server applications, and an allocator causes the additional server to be activated when the load on the server exceeds a threshold (a load condition).

The Examiner has not provided any supportable objective reasoning why one of ordinary skill in the art would have been motivated to modify Ejzak in view of Landherr. The Examiner contends that it would have been obvious to combine the references “in order to support the

requesting server when the load exceed the threshold”.<sup>4</sup> This stated rational is flawed for at least the following reasons.

Ejzak relates to IP multimedia communications. Landherr is not concerned with IP multimedia communications, but relates to the activation of a server application in response to a load condition. There are no load concerns noted in the Ejzak system. Further, Ejzak teaches multiple various servers (for example, servers 152, 153, and 201) which should be able to handle any supposed load, thus undermining the Examiner’s basis for the combination.

Further, the Examiner does not address how one of ordinary skill in the art would have been able to modify Ejzak in view of Landherr to produce the claimed invention since, as discussed above, the Ejzak system is based upon IP multimedia subsystems, and enabling these subsystems to support features and services for mobile units using circuit-switched or IP multimedia control procedures, while Landherr relates to the detection of loads on a server and the allocation or activation of an additional server application if the load on the server exceeds a particular threshold. The references are directed to completely different objects such that there is no reason to combine or modify their teachings in view of each other.

The Examiner also acknowledges that Ejzak and Landherr fail to teach “call session control Network element (CSCF) receiving a selection of at least one service application from said set of service applications forwarded by said called party terminal”, as claimed. The Examiner thus relies on Hsu to allegedly cure this conceded deficiency.

---

<sup>4</sup> Page 4 of the office Action.

In the previous Response, Applicant submitted that Hsu also has no relevance to the claimed invention, since Hsu merely teaches a rule-based packet selection, storage, and access system for processing packets from network traffic.

In response, the Examiner asserts:

Hsu discloses each packet is typically divided into a plurality of fields, whose function is defined by a predetermined protocol. The rules can compare, for example, one or more fields in an incoming packet with predetermined values and select that packet for logging if the appropriate values are present. The selection of that packet is construed by the Examiner as “a selection of at least one application from said set of service application”.<sup>5</sup>

Applicant continues to find the Examiner’s position extremely unclear, and further submits that the Examiner’s stated position is clearly erroneous.

The claimed service applications pertain to applications for answering an incoming call, and the called party terminal is adapted to select an application from the set of application services to answer the incoming call. The service applications may comprise recording the call or invoking a third party into the call.

It remains unclear to Applicant how “selection of at least one service application from said set of service applications forwarded by said called party”, could read on the selection of a packet, as taught by Hsu.

Further, Applicant respectfully submits that one of ordinary skill in the art would not modify and combine Ejzak, Landherr and Hsu (if indeed the references could be combined) in view of their obviously diverse teachings. Ejzak is based on IP multimedia subsystems,

---

<sup>5</sup> Pages 8-9 of the Office Action.

Landherr relates to load detection on servers, and Hsuu pertains to a rule-based packet selection system. The diverse teachings of the references prevents them from being modified and combined in order to produce the claimed invention.

Accordingly, applicant respectfully submits that independent claim 1, 3, 5, and 9 should be allowable because the cited reference does not teach or suggest all of the features of the claims. Claims 2, 4, 6-8, and 10 should also be allowable at least by virtue of their dependency on independent claims 1, 3, 5, and 9.

***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Mark E. Wallerson/

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: October 8, 2009

---

Mark E. Wallerson  
Registration No. 59,043